HIGH COURT OF CHHATTISGARH AT BILASPUR

CORAM : Hon'ble Shri Jagdish Bhalla, Ag. CJ. &
Hon'ble Shri Dilip Raosaheb. Deshmukh, J.

Writ Appeal No. 99 of 2007

JUDGMENT FOR CONSIDERATION

Sd/-
Ag. CHIEF JUSTICE
17/07/2007

HON'BLE SHRI D.R. DESHMUKH, J. I agree

Sd/-
Dilip Raosaheb Deshmukh
Judge

POST FOR PRONOUNCEMENT
OF THE JUDGMENT : 18 /07/2007

Sd/-
Ag. Chief Justice

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI JAGDISH BHALLA, Ag.CJ. &
HON'BLE SHRI DILIP RAOSAHEB DESHMUKH, J.

Writ Appeal No. 99 of 2007

APPELLANT PETITIONER : Ajay Kumar Patnayak, S/o Shri Alekh Prasad Patnayak, Aged about 29 years, R/o village Mahloi, Tahsil – Gharghora, District Raigarh (C.G.).

VERSUS

RESPONDENTS

1. Jai Prakash Mishra, S/o Shri Badri Prasad Mishra, R/o village Mahloi, Tahsil- Gharghora, District Raigarh (C.G.).
2. Sarpanch Gram Panchayat, Mahloi, Block Tamnar, Tahsil- Gharghora District Raigarh (C.G).
3. Block Education Officer, Tamnar, Tahsil- Gharghora, District Raigarh (C.G.).
4. Chief Executive Officer, Janpad Panchayat, Tamnar, Tahsil – Gharghora, District Raigarh (C.G.).
5. Additional Collector, Raigarh, Tahsil and District Raigarh (C.G.).
6. Director, Panchayat, Chhattisgarh, Raipur (C.G.).

Writ Appeal under Section 2 (1) of the Chhattisgarh High Court (Appeal to Division Bench) Act 2006.

Present : Shri Gautam Bhaduri, counsel for the appellant.

Shri N.K. Agrawal, Deputy Advocate General, for the State.

JUDGMENT

(Delivered on 18th July, 2007)

The following order of the Court was passed by **Jagdish Bhalla, Ag. CJ.**

This writ appeal is directed against the order dated 12.03.2007, passed by Hon'ble Single Judge dismissing the writ petition No.5408/2005, filed by the appellant/petitioner.

Brief facts of the case are that in pursuance of the sanction letter dated 06.01.2000, the Chief Executive Officer, Janpad Panchayat, Tamnar, District Raigarh had sent a letter dated 17.04.2000 to the Sarpanch asking for sending the penal list regarding appointment of Guruji under Education Guarantee Scheme (hereinafter referred to as 'EGS') by inviting applications by public announcement system. After completing the necessary formalities, petitioner/appellant was appointed as Guruji in EGS centre, Patarapara. Aggrieved by the said order, respondent No.1 preferred an appeal under Section 91 of the Panchayat Raj Adhiniyam before the Additional Collector, Raigarh, which was allowed by order dated 02.07.2001 and the matter was remanded back to the Chief Executive Officer, Janpad Panchayat, Tamnar with a direction to take appropriate action in accordance with EGS. Aggrieved by the said order of the Additional Collector, the appellant/petitioner filed an appeal before the Director, Panchayat, Chhattisgarh, Raipur who too dismissed the same by order dated 09.08.2005 confirming the order passed by the Additional Collector. The result is that the matter has been remanded back to the Chief Executive Officer. Aggrieved by the said order the appellant/ petitioner filed writ petition before Hon'ble

Single Judge which came to be dismissed by the impugned order. Hence, this writ appeal.

The writ petition is titled as "Writ Petition under Article 226/227 of the Constitution of India."

Learned counsel for the appellant / petitioner was called upon to address this Court on the question of maintainability of this writ appeal. Learned counsel submitted that since the writ petition has been filed under Article 226, and Article 227 was just mentioned along with it, this writ appeal was maintainable.

We are of the opinion that this appeal is squarely covered by the view expressed by this Bench *in re* ***Chhattisgarh Chemical Mill Mazdoor Sangh Vs. Director, Keystone Industries Ltd. & others (W.A.(PR) No.3486 of 2007)*** . In this case also, the controversy involved does not originate before the High Court. The orders of two appellate authorities acting as Tribunal were under challenge before the Hon'ble Single Judge. In such circumstances, from the appreciation of the judgment referred to hereinabove and in the facts and circumstances of the case, it can be said that no writ appeal is maintainable.

In light of the above discussion, the writ appeal is not maintainable and the same is dismissed as such.

Sd/-
Ag. Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge